IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 28TH MAY 2007 / 7TH JYAISHTA 1929

CRP.No. 7 of 2005()

CMA.139/2004 of I ADDL.DISTRICT COURT, THRISSUR
I.A.302/04 IN OS.458/2003 of MUNSIFF'S COURT,VADAKKANCHERRY

.....

REVN. PETITIONER:

T.ANITHA MENON, D/O.LATE PARUVAKKAT
ARAVINDHAKSHA MENON, CHOONDAL VILLAGE,
DESOM, THALAPPILLY TALUK.

BY ADV. SRI.VAKKOM N.VIJAYAN
SMT.VINITHA PRASANNAN
SRI.P.ANIYAN
SMT.RAGAM.K.P.
SMT.REENA.C.STEPHENSON
SRI.A.S.SACHIN

RESPONDENTS:

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1. INDIRA DEVI, D/O.PARUVAKKAT
MEENAKSHI AMMA, CHOONDAL VILLAGE,
THALAPPILLY TALUK.

2. AJITH MENON, S/O.PARUVAKKAT
INDIRA DEVI, CHOONDAL VILLAGE,
DESOM, THALAPPILLY TALUK.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 28/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRP.7/05

ORDER ON I.A.14/05 AND 151/07 IN CRP.7/05

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DISMISSED

28.5.2007 SD/-PIUS C.KURIAKOSE, JUDGE

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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C.R.P.No.7 OF 2005

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DATED THIS THE 28TH MAY, 2007

O R D E R

I have heard Sri.Vakkom N.Vijayan, counsel for the petitioner and Sri.G.Sreekumar, counsel for the respondents at length.

2. I have gone through the orders passed by the learned Munsiff and also by the learned Additional District Judge. I am not persuaded to hold that the orders of the courts below granting mandatory injunction pending suit are vitiated by any jurisdictional error. The impugned orders are not liable to be interfered with in revisional jurisdiction under Section 115 of the Code of Civil Procedure.

3. There is dispute between the parties as to what is the status quo presently obtaining regarding the pathway. While the counsel for the respondents asserts that even now the respondents are able to make use of the pathway for their access, the counsel for the petitioner submits that the very averment in the affidavit in support of the application for mandatory injunction was that the pathway has been rendered unusable. Whatever that be, there will be a direction that as regards the user of the pathway by the plaintiffs, the status quo obtaining as on today will be maintained.

4. I dismiss the C.R.P. However, the learned Munsiff is directed

to expedite the trial of the suit by special listing the suit in the earliest possible special list, and there will be an observation that the Munsiff will not be unduly influenced by the findings in his own order and also by the judgment of the learned District Judge in the C.M.A. while deciding the suit. No costs.

(PIUS C. KURIAKOSE, JUDGE)

tgl